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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAR - 9 1998

FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)
)
The Petition of U S WEST Communications, Inc.) CC Docket No. 97-149
for Waiver of Sections 61.45(d), 61.46(d) and)
69.152 of the Commission's Rules.)

COMMENTS OF SPRINT CORPORATION

On February 2, 1998, U S WEST Communications, Inc. ("U S WEST") filed a petition requesting a temporary waiver of Sections 61.45(d), 61.46(d) and 69.152 of the Commission's rules in order to allow it to impose End User Common Line ("EUCL") charges on multi-line business customers which exceed the amounts provided for in those rules without making a corresponding exogenous cost adjustment to its price cap index ("PCI"). Pursuant to the Public Notice issued February 5, 1998, Sprint Corporation ("Sprint") respectfully offers the following comments on the petition.

U S WEST's petition was filed as a result of the Commission's requirement that price cap LECs employ a different base portion factor ("BFP") forecasting methodology than they had used in the past to allocate common line costs between long distance carriers and end user customers. The Commission did not find that any of the price cap LECs involved had, in the aggregate, over-recovered total common line costs; rather, it objected to the manner in which the LECs' forecasts had allocated those costs between customer groups. In order to remedy the situation, the Commission directed these LECs to make refunds of the overcharges to their interexchange carrier customers. The Commission did not, however, provide for a mechanism to allow for the LECs to recover the corresponding undercharges.

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In its petition, U S WEST notes that without the ability to recover these undercharges, the Commission's order will have the "effect of disallowing a substantial portion of U S WEST's Common Line revenues requirement, unless U S WEST is allowed to collect from its end user the amounts it would have charged them had its BFP forecast matched the Commission's subsequent prescription."¹ Specifically, U S WEST is proposing to increase its EUCL charge to its multi-line business customers by an amount equal to the difference between the rate prescribed by the Commission and the rate contained in the company's annual access filing. To the extent the sum resulting from this calculation exceeds the \$9.00 EUCL cap established by Section 69.152, U S WEST requests a waiver so that it may establish temporary EUCL rates without making a corresponding exogenous adjustment to its PCI.²

In the last several weeks, Sprint has twice gone on record in support of the notion that the Commission should provide a mechanism by which the price cap LECs may recover the undercharges resulting from the Commission's refund directive. In comments filed January 21, 1998 in the 1997 Annual Access Tariff Filings docket, Sprint noted that:

Sprint does not challenge the Commission's conclusion [to employ a different forecasting methodology than used in the past to allocate common line costs between interexchange carriers and end users]. However, because the Commission did not question the reasonableness of total common line costs, Sprint agrees...that any Commission requirement causing LECs to refund overcharges must, correspondingly, be accompanied by a mechanism which allows recovery of undercharges. To do otherwise would penalize the LECs for failing to use a methodology that did not even exist at the time the monies in question were being collected and would prevent them from recovering legitimately incurred costs.³

Similarly, in comments filed on February 27, 1998, Sprint again asserted its belief that:

¹ U S WEST petition at pp. 3-4.

² *Id.* at p. 5.

³ *In the Matter of 1997 Annual Access Tariff Filings*, CC Docket 97-149, CCB/CPD 98-1, Sprint Comments at p.1.

Sprint wishes to point out that, contrary to the way in which AT&T and others have characterized the matter, the price cap LECs did not act improperly when estimating the BFP. The fact is, the BFP has historically been based on an estimated number which, by virtue of being an estimate, resulted in imprecise numbers. In the aggregate, no LEC was found to have over-collected revenues; rather, the Commission found that the common line costs had been misallocated between IXC's and end user customers. ...In any event, under these circumstances, to the extent that the Commission causes the LECs to refund overcharges to the IXC's, it must, correspondingly, provide to the LECs a mechanism by which to recover undercharges.⁴

Sprint takes this opportunity to once again declare that the price cap LECs impacted by the Commission's directive to alter the BFP forecasting methodology must be permitted to recover common line costs refunded to the IXC's. Moreover, as it stated in its January 21, 1998 comments, Sprint believes the appropriate mechanism to employ to accomplish this task is to increase the multi-line business SLC in order to recover those amounts.⁵ To that end, Sprint supports U S WEST's request for waivers of Rules 61.45(d) and 61.46(d) and further asserts that, to the extent the Commission grants U S WEST's request, that it treat all effected price cap LECs in a similar manner.

In its earlier comments, Sprint suggested that the temporary SLC increase be in effect for a six month period beginning July 1, 1998.⁶ Further, recognizing that the \$9.00 cap may not allow for full recovery, Sprint maintained that the LECs be entitled to carry forward the recovery amount until such time as all dollars are recovered. Once the dollars are recovered, the exogenous change would be removed from the SLC. U S WEST's petition suggests a similar recovery plan although it proposes that, rather than extending the time over which the company can recover the undercharges, it be permitted to exceed the \$9.00 cap in order to recover its undercharges. If the Commission agrees to U S WEST's request and grants it a waiver of Rule 69.152 so that

⁴ *In the Matter of Tariffs Implementing Access Charge Reform* CC Docket No. 97-250, Sprint Comments at p. 5.


⁵ Footnote 3, *supra* at p.2.

⁶ *Id.*

it may temporarily exceed the SLC cap, Sprint again maintains that all price cap LECs be treated in a similar manner.

Finally, U S WEST contends that it should not be required to issue the refunds ordered by the Commission until such time as the temporary SLC increase is implemented.⁷ Sprint urges the Commission to reject this portion of U S WEST's petition. The Commission has made its determination on the appropriateness of IXC refunds; U S WEST should not be permitted to use this petition as an out-of-time petition for reconsideration in an attempt to challenge that determination. There is no reason to delay the IXC refunds while the LECs seek to implement end user recovery mechanisms.

Respectfully submitted,
SPRINT CORPORATION.

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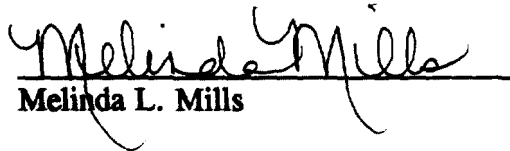
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March 9, 1998

⁷ U S WEST petition, at p. 1.

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 9th day of March 1998, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation" in the Matter of The Petition of US West Communications, Inc. for Waiver of Sections 61.45(d), 61.46(d) and 69.152 of the Commission's Rules, CC Docket No. 97-149, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.


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